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Letter dated 29 January 2010 from the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1540 (2004), and in accordance with paragraph 8 of Security Council resolution 1810 (2008), I submit herewith a final document on the 2009 comprehensive review of the status of implementation of resolution 1540 (2004) (see annex).

I would appreciate it if you would bring the present letter and its annex to the attention of the members of the Security Council and have them circulated as a document of the Council.

(*Signed*) Claude **Heller**
Chairman
Security Council Committee established
pursuant to resolution 1540 (2004)

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Annex to the letter dated 29 January 2010 from the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) addressed to the President of the Security Council

Final document on the 2009 comprehensive review of the status of implementation of Security Council resolution 1540 (2004): key findings and recommendations

1. The adoption of Security Council resolution 1540 (2004) has prompted significant steps across the globe to prevent non-State actors from manufacturing, acquiring, possessing, developing, transporting, transferring or using nuclear, chemical and biological weapons and their means of delivery, and has also facilitated the gathering of comprehensive data of measures taken by States in this regard.

2. Since the adoption of resolution 1540 (2004), a very high number of States have reported on the measures taken in accordance with said resolution. The 2008 report of the Committee established pursuant to resolution 1540 (2004) (S/2008/493) details specific measures undertaken by States to fulfil the obligations of States derived from it.

3. In qualitative terms, a number of Member States have forged new working relationships across government bureaucracies; enhanced regulatory frameworks; and expanded their efforts to address the nexus between non-State actors and weapons of mass destruction. In quantitative terms, since 2006, Member States have made demonstrable and significant progress in addressing the threat of proliferation of weapons of mass destruction. Nearly 160 Member States have reported on their capabilities and gaps in stopping the proliferation of weapons of mass destruction, and the number of States reporting to have implemented legislative measures to penalize the involvement of non-State actors in prohibited weapons of mass destruction proliferation activities has grown considerably since the adoption of resolution 1540 (2004).

4. Some international organizations have also cooperated with the 1540 Committee and Member States in the implementation of the resolution; some of them have included aspects of resolution 1540 (2004) to guide their work. Moreover, some major international organizations have expressed high-level political commitment to the resolution's implementation. In addition, new assistance tools, such as matrices and assistance templates, have been developed to help States comply with their obligations.

5. Implementing resolution 1540 (2004) has combined capacity-building with the development of new assistance vehicles for empowering Member States to fulfil their obligations. Discussions during international workshops, meetings and events sponsored by non-governmental organizations spearheaded by the United Nations and other Member States have supported an evolving process for matching requests for assistance with donors.

6. In resolution 1810 (2008), the Security Council requested the 1540 Committee to consider a comprehensive review of the status of implementation of resolution

1540 (2004). On 27 March 2009, the 1540 Committee provided to the Security Council a report on the modalities for such a review (see S/2009/170, annex).

7. As part of the comprehensive review, and as a means to increase transparency and foster dialogue among Member States, the 1540 Committee held three days of open meetings from 30 September to 2 October 2009, including a general debate and three interactive thematic sessions dealing with specific topics identified in the modalities paper. The experts of the 1540 Committee produced background papers to facilitate the debate (available from http://www.un.org/sc/1540). In addition, a special session for representatives of civil society was held on 1 October to enable them to contribute to the comprehensive review. Overall, a significant number of Member States and international organizations participated in the meetings.

8. During the open meetings, States made clear that they had undertaken noteworthy efforts to implement resolution 1540 (2004) over the previous five years and would continue to do so. States identified the value of the work of the 1540 Committee and the need for a long-term implementation horizon, and discussed challenges still faced in the implementation of resolution 1540 (2004).

9. Five years after adoption of the resolution, the review allowed the 1540 Committee to take stock of the evolution of risks and threats related to the proliferation of nuclear, chemical, and biological weapons and their means of delivery to non-State actors, as well as illicit access or trafficking by such actors of materials related to those weapons. The 1540 Committee focused the review on how it could better address critical issues and identify new approaches to facilitate implementation of the resolution.

10. As a result of this exercise, the 1540 Committee collected specific suggestions for the direction of its future work from States, intergovernmental bodies and civil society during the course of the review, and agreed on the following points.

Capacity of the 1540 Committee to gather information on the status of implementation

11. The 1540 matrix has proved to be a very useful tool to reflect information about actions taken by States in fulfilment of their obligations derived from resolution 1540 (2004). Nevertheless, some States have highlighted the complexity of working with the matrix. It is therefore recommended that the Committee consider, as appropriate, improving the 1540 matrix and assistance templates in order to make them more user friendly, taking into account the relevant suggestions proposed by Member States during the comprehensive review.

12. It was evident that owing to a wide range of obligations derived from resolution 1540 (2004), some States still have some lacunae in addressing all of them in their legislation, including the adoption of penalties and preventive enforcement measures. In this regard, it is recommended that the Committee continue to facilitate legal assistance, at the request of the States concerned, as well as make the legislative database of the 1540 Committee more user friendly.

13. It was also noticed that in some cases the Committee lacks information on enforcement measures taken by States. In this regard, States are encouraged to strengthen their efforts to share information with the Committee on all aspects of enforcement.

14. Other measures to enhance the capacity to gather information on the implementation of resolution 1540 (2004) could include: outreach activities, such as conducting country-specific visits, with the consent of the States concerned, and workshops to delve deeper into understanding the challenges of national implementation; and redoubling efforts to get all States to submit reports, both the outstanding first reports and additional information. Moreover, sharing information on inter-agency cooperation, enforcement activities, voluntary implementation planning and timeline data were among other measures proposed to improve the Committee's understanding of the national implementation measures in accordance with resolution 1540 (2004).

Efficient and effective working practices of the 1540 Committee

15. The cooperative and transparent approach of the 1540 Committee has been a key factor in increasing the level of cooperation with all States. It is recommended that it continue to work with such an approach, including through the practice of organizing outreach activities and increasing its interaction with the entire United Nations membership, including, where appropriate, through open meetings.

16. Some of the proposals to develop more efficient and effective practices include actions, such as holding meetings on a more regular basis, the possibility of including the presence of experts from capitals in the discussion of the most important topics, increasing the number of experts and reducing the number of the Committee's ancillary bodies. Other proposals relate to the use of informal methods, such as ad hoc cooperation arrangements and establishing and working with rosters and networks of experts inside and outside of the United Nations system.

17. The comprehensive review recognized the value of continuing efforts to ease the transition of new non-permanent members to the 1540 Committee and to maintain the network of non-permanent members leaving the 1540 Committee to support implementation of the resolution. The 1540 Committee will consider how it can implement those proposals in a complementary manner.

Means for facilitating assistance

18. The comprehensive review acknowledged that facilitating assistance is a key element for enhancing the full implementation of resolution 1540 (2004). In this regard, the importance of responding to assistance requests from States was recognized. It was also recognized that the provision of assistance to non-reporting States could facilitate the submission of their first reports. Therefore, it is recommended to conduct, with the assistance of the experts of the 1540 Committee, more analyses of the requests, offers and related assistance programmes to develop effective matching strategies.

19. Furthermore, the comprehensive review identified that assistance requests made through regional organizations, or jointly by States that are members of customs unions or free trade zones, can have added value. In this regard, the Committee will continue to encourage the presentation of such requests.

20. In addition to using country visits and workshops for this purpose, the 1540 Committee should consider holding events to bring together those offering and seeking assistance for the implementation of the resolution, to develop more effective assistance networks, and to integrate the implementation of resolution

1540 (2004) obligations with the pursuit of broader national objectives convergent with the resolution.

21. The comprehensive review also welcomed the recommendations made by the 1540 Committee in March 2009 to make more effective use of existing funding mechanisms, including the consideration of the establishment of a voluntary fund, as well as the Security Council's commitment to promote full implementation of resolution 1540 (2004) by Member States by ensuring effective and sustainable support for the activities of the 1540 Committee.

Cooperation with international, regional, subregional, and multilateral institutions

22. In view of the common or interrelated challenges, the 1540 Committee was called upon to create more formal and informal cooperative arrangements with international, regional, subregional and multilateral institutions, to facilitate the sharing of information on good practices and lessons learned, to develop and implement standards, and identify assistance requirements and programmes where the Committee's mandate relating to non-State actors fosters added value. Its work with regional and subregional organizations should focus on facilitating the interaction of regional and national institutions to remedy national implementation challenges, such as reconciling priorities, harmonizing approaches, facilitating advisory and drafting services, and matching requests and offers of assistance. It is recommended that the Committee enhance and, as appropriate, institutionalize its cooperation with international non-proliferation mechanisms, other United Nations bodies, the Group of Eight, regional and subregional organizations, and nuclear-weapons-free zones, where applicable, which could provide added value to the implementation of resolution 1540 (2004) by expanding both formal and informal working relationships with them.

23. The comprehensive review recognized the added value of the regional workshops in facilitating regional experience sharing in the implementation of resolution 1540 (2004) and the need to continue with this practice. In this regard, the Committee will also continue to encourage States to increase their efforts to foster the development and sharing of best practices.

Outreach of the 1540 Committee

24. The comprehensive review recognized the importance for States as well as for the 1540 Committee, as appropriate, to raise awareness and develop appropriate ways to work with and inform industry and the public regarding the obligations derived from laws related to resolution 1540 (2004) that have been adopted by States. It was recognized that interaction with civil society, including through outreach to academia and industry, could assist States in implementing resolution 1540 (2004).

25. As a part of the outreach activities, the comprehensive review recognized that additional efforts need to be made by the Committee to raise awareness among parliamentarians and other high-level decision makers of the obligations derived from resolution 1540 (2004).

26. In addition, the comprehensive review acknowledged the significant number of measures that States have taken to implement resolution 1540 (2004) obligations,

but identified some areas in which States have adopted fewer measures, such as biological weapons, means of delivery, national control lists, and access to related materials and financing of prohibited or illicit proliferation activities.

27. In this regard it was recognized that export control lists are used in promoting the implementation of resolution 1540 (2004).

28. The comprehensive review recognized that all States face challenges in the implementation of the resolution and that, therefore, the work of the Committee should have universal coverage, but a particular effort should be made in regions where States, on average, have taken relatively few measures to implement the resolution and with non-reporting States to get a better understanding of why they have not reported. It was recommended that the 1540 Committee develop an appropriate mechanism of cooperation with non-reporting States, including provision of necessary technical assistance, upon their requests.

29. It was also recognized that in the framework of its activities the Committee should continue to raise awareness about the multilateral treaties whose aim is to prevent the proliferation of or eliminate weapons of mass destruction so as to contribute to their universality.

30. Furthermore, States also underlined the need for strict respect of the rule of law, due process standards and protection of human rights in the implementation and enforcement of resolution 1540 (2004).

31. The States and many international actors welcomed the openness of the comprehensive review process and urged the 1540 Committee to continue this approach and to increase its already useful efforts towards achieving transparency and inclusiveness. Such an approach will foster greater cooperation for the future work of the 1540 Committee and in the implementation of the resolution.

32. The 1540 Committee, while maintaining its distinctive non-proliferation character, will consider practical steps to implement, as appropriate, the diverse recommendations and proposals outlined in the present document, and will also take them into consideration while preparing its programmes of work for the remainder of its current mandate.

33. This record of ideas and implementation challenges demonstrates the need for a long-term focus to address these non-proliferation challenges through cooperation with and among Member States.